

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743
www.dir.ca.gov/oshsb



Attachment No. 2

INITIAL STATEMENT OF REASONS**CALIFORNIA CODE OF REGULATIONS**

**TITLE 8: Chapter 4, Subchapter 7, Article 7, Section 3301
of the General Industry Safety Orders.**

Pressure Testing of Pipes and Other Containers**SUMMARY**

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking as the result of a Memorandum from the Division of Occupational Safety and Health (Division), dated May 8, 2003, with attachments, to revise Section 3301 of the General Industry Safety Order (GISO).

Existing Section 3301 addresses hazards associated with the use of compressed air or gasses by requiring specific controls, such as limits on air or gas pressures, mechanical safe guards, and personal protective equipment. Excluded from this section is a requirement that addresses the hazard of over pressurizing pipes and containers with compressed air or gas. Requirements regarding the over-pressurization of any object are located in Section 560(c) of the Unfired Pressure Vessel Safety Orders (UPVSO).

Given that the requirements in the UPVSO are limited in their application to unfired pressure vessels and are not readily recognized or widely known to general industry employers, a revision is proposed to add new subsection (f) to Section 3301 which specifically addresses pressure testing of any object to ensure that employees are not seriously injured by a ruptured vessel or container.

Additionally, an amendment is proposed to delete the word "hazardous" from the term "hazardous material" in Section 3301(e) for consistency with Section 560(c) of the UPVSO. The qualifying term "hazardous" is not used in Section 560(c), thus prohibiting *all* substances, not just those classified as "hazardous", to be transferred using compressed gas unless the containers into which they are being transferred to are designed to withstand the pressurized transfer.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

Section 3301. Use of Compressed Air or Gases.

Existing Section 3301 addresses hazards associated with compressed air or gasses by requiring specific controls, including limits on air or gas pressures when employees use compressed air to blow dirt, dust, chips, etc. from their clothing, mechanical safe guards, the use of abrasive blasting nozzles, etc.

Existing Section 3301(e) states that compressed gasses shall not be used to elevate or otherwise transfer any hazardous substance from one container to another unless the containers are designed to withstand, with a factor of safety of at least four, the maximum possible pressure that may be applied. It is proposed to delete the word "hazardous" from the term "hazardous substance" for consistency with the terminology used in Section 560(c) of the UPVSO. The proposed revision is necessary to prohibit *all* substances, not just those classified as "hazardous", from being transferred using compressed gas unless the containers into which they are being transferred to are designed to withstand the pressurized transfer.

It is also proposed to add a new Subsection (f) which requires pressure testing of any object to be in accordance with Section 560(c) and (d) of the Unfired Pressure Vessel Safety Orders. The revision is necessary to ensure that employers comply with safe pressure testing procedures as specified in Section 560(c) and (d) of the UPVSO.

DOCUMENTS RELIED UPON

1. Memorandum from the Division of Occupational Safety and Health (Division), dated May 8, 2003, amending attached Memorandum and Request for New, or Change in Existing, Safety Order (Form 9), dated February 14, 2001.

This document is available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Non-discretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulation does not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.